

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA,
THE YUMA METROPOLITAN PLANNING ORGANIZATION (YMPO)
AND THE CITY OF YUMA

THIS AGREEMENT is entered into 19 of October, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), the YUMA METROPOLITAN PLANNING ORGANIZATION, (YMPO), acting by the through its BOARD OF DIRECTORS (the "YMPO") and the CITY OF YUMA, ARIZONA, acting by and through its MAYOR and CITY COUNCIL (the "City")

I. RECITALS

1 The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2 The YMPO is empowered by Arizona Revised Statutes Section 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the YMPO.

3 The City is empowered to enter into this Agreement by Arizona Revised Statutes Section 48-572 and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

4 Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancements activities.

5 Such project lies within the boundary of the City and has been selected by the City; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.

6 The interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City and YMPO to authorize such Federal funds for the project by Federal law and regulations

NO. 27161
Filed with the Secretary of State
Date Filed: 10/19/04
Janice K. Brewer
Secretary of State

By: Wm. D. Haeneuwald

7. The YMPO, in order to obtain federal funds for the construction of the project, is willing to provide YMPO Executive Board funds to match federal funds in the ratio required or as finally fixed and determined by the FHWA

8. The State, YMPO and the City are in Agreement to design, construct, operate and maintain a Traffic Safety Village. The Traffic Safety Village consists of a sixty-foot by sixty-foot decorative concrete slab, four miniature houses, full signage and traffic signals, and electrical power to the project at an estimated cost of federal funds in the amount of \$76,524.00. The parties hereto agree that the City shall self-administer the project for construction and the YMPO will schedule site tours, and maintain the facility. The Project is located on the grounds of Yuma Fire Station #4, 2850 West 16th Street, Yuma, Arizona.

9. Work embraced in this Agreement to design and construct Traffic Safety Village and the following estimated costs are:

Design TRACS No. SL 483 02D

| | |
|---------------------------|--------------------|
| Estimated Design Cost | \$14,000.00 |
| Federal Aid Funds @ 94.3% | <u>\$13,202.00</u> |
| YMPO Funds @ 5.7% | \$ 798.00 |

Construction TRACS No. SL 483 01C

| | |
|---|--------------------|
| Estimated Construction Cost (incl. 15% CE cost) | \$67,150.00 |
| Federal Aid Funds @ 94.3% | <u>\$63,322.00</u> |
| YMPO Funds @ 5.7% | \$ 3,828.00 |

| | |
|--|--------------------|
| Total Estimated YMPO Funds for Design and Construction | \$ 4,626.00 |
|--|--------------------|

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Agree to be the City's authorized agent for the construction of the project and submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction and funding

b. Approve the project if such project construction funds are available by FHWA for construction of the project and request the authorized federal funds available, including construction engineering and administration costs. The State and FHWA hereby designates the City to self-administer the project

c. After bid opening and award of the construction contract by the City, make progress payments to the City for the direct actual cost of the construction of the Project, plus construction, construction engineering and administration costs within thirty-days (30) after receipt and approval of an invoice.

2. The YMPO will:

a. Provide and prepare to State standards design plans, specifications and other such documents and services required for construction bidding and construction of the project and coordinate with State for review comments with the YMPO design.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this Agreement, the YMPO shall be obligated to incur any expenditure in excess. Such changes require the prior approval of the Board

c. Prior to the solicitation of bids, the YMPO shall deposit funds with the State in the amount determined to be necessary to match federal funds in the ratio required

d. Coordinate the scheduling of site tours. Such activities will be coordinated with the Fire Department to reduce potential for the occurrence of conflicting activities.

e. Coordinate the establishment of budgets for capital improvements and major repairs to the facility

3. The City will.

a. With the aid and consent of the FHWA, State and the YMPO, using Arizona Procurement Procedures, proceed to advertise for, receive and open bids, subject to the concurrence of FHWA, State and the YMPO. Enter into a contract(s) with a firm(s) to whom the award is made for the construction of the project. The project will be performed, completed, accepted and paid for in accordance with the requirements of the project plans, special provisions, and standard specifications.

b. Provide the necessary right-of-way required for project construction and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bids and shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the project area and hereby certifies that all obstructions and encroachments have been or will be removed there from prior to the start of construction.

c. Provide personnel to administer and supervise construction. All construction project change orders are to be copied to the State.

d. Upon completion of construction, provide at its own cost and as an annual item in its budget, for the proper maintenance and electrical power for the Traffic Safety Village.

e. Upon execution of this Agreement, invoice the State for the estimated 94.3% federal aid construction and construction administration costs addressed under this Agreement.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement. The YMPO Executive Board assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the YMPO and the City. The YMPO and the City will be responsible for its own negligent or wrongful acts or omissions, pursuant to the Agreement. Indemnities shall be liable for their own negligence or wrongful acts as provided by law.

2. The cost of the construction and construction engineering work covered by this Agreement is to be borne by FHWA and the YMPO, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this Agreement. Therefore, YMPO agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.

3. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of the work and reimbursements; provided herein. However, any provisions maintenance and electrical power provided by the City and capital improvements and major repairs by the YMPO shall be perpetual, unless assumed by another entity.

4. This Agreement shall become effective upon filing with the Secretary of State.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit, the YMPO will bear all costs associated therewith.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

Yuma Metropolitan Planning Org.
Executive Director
502 South Orange Avenue
Yuma, AZ 85365

City of Yuma
Administrator
One City Plaza
P.O. Box 13014
Yuma, AZ 85366-3014

9. In accordance with Arizona Revised Statutes Section 11-952 (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

10. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".


11. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

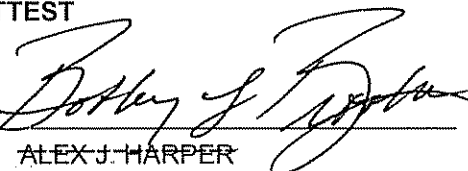
**YUMA METROPOLITAN PLANNING
ORGANIZATION**

CITY OF YUMA

By 
F.M. LUCKIE
Executive Director

By 
ROBERT L. WAGNER
City Administrator


ATTEST

By 
~~ALEX J. HARPER~~
Chairman of the Board
BOBBY L. BROOKS

ATTEST

By 
BRIGITTA M. KUIPER
City Clerk

STATE OF ARIZONA
Department of Transportation

By 
SUSAN TELLEZ
Contract Administrator

RESOLUTION NO. R2004-68

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF
AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF
ARIZONA AND THE YUMA METROPOLITAN PLANNING
ORGANIZATION, FOR THE CONSTRUCTION, OPERATION AND
MAINTENANCE OF CERTAIN PUBLIC IMPROVEMENTS**

WHEREAS, the Yuma Metropolitan Planning Organization (YMPO) desires to sponsor the construction of certain traffic educational facilities (Project) upon a portion of City of Yuma, Arizona (City) Fire Station No. 4 property; and,

WHEREAS, the State of Arizona (State) has submitted the YMPO Project for funding and, as that submittal has been approved, will provide that funding for use by the Project; and,

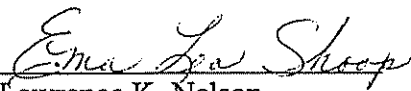
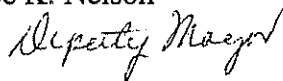
WHEREAS, the State, the YMPO and the City have a mutual interest in promoting pedestrian safety: and

WHEREAS, the State, the YMPO and the City have determined that a consolidation of efforts by all three (3) parties to undertake the construction, operation and maintenance of the Project will provide the greatest benefit to the State, the YMPO, the City and the Public.

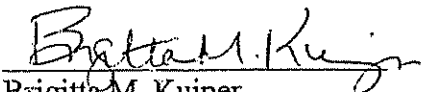
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona, that the City Administrator is authorized and directed to execute an Intergovernmental Agreement with the State of Arizona and the Yuma Metropolitan Planning Organization, as shown in Exhibit A, attached hereto and by this reference made a part hereof.

Passed and adopted this 15th day of September, 2004.

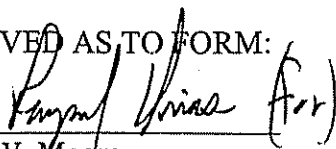
APPROVED:

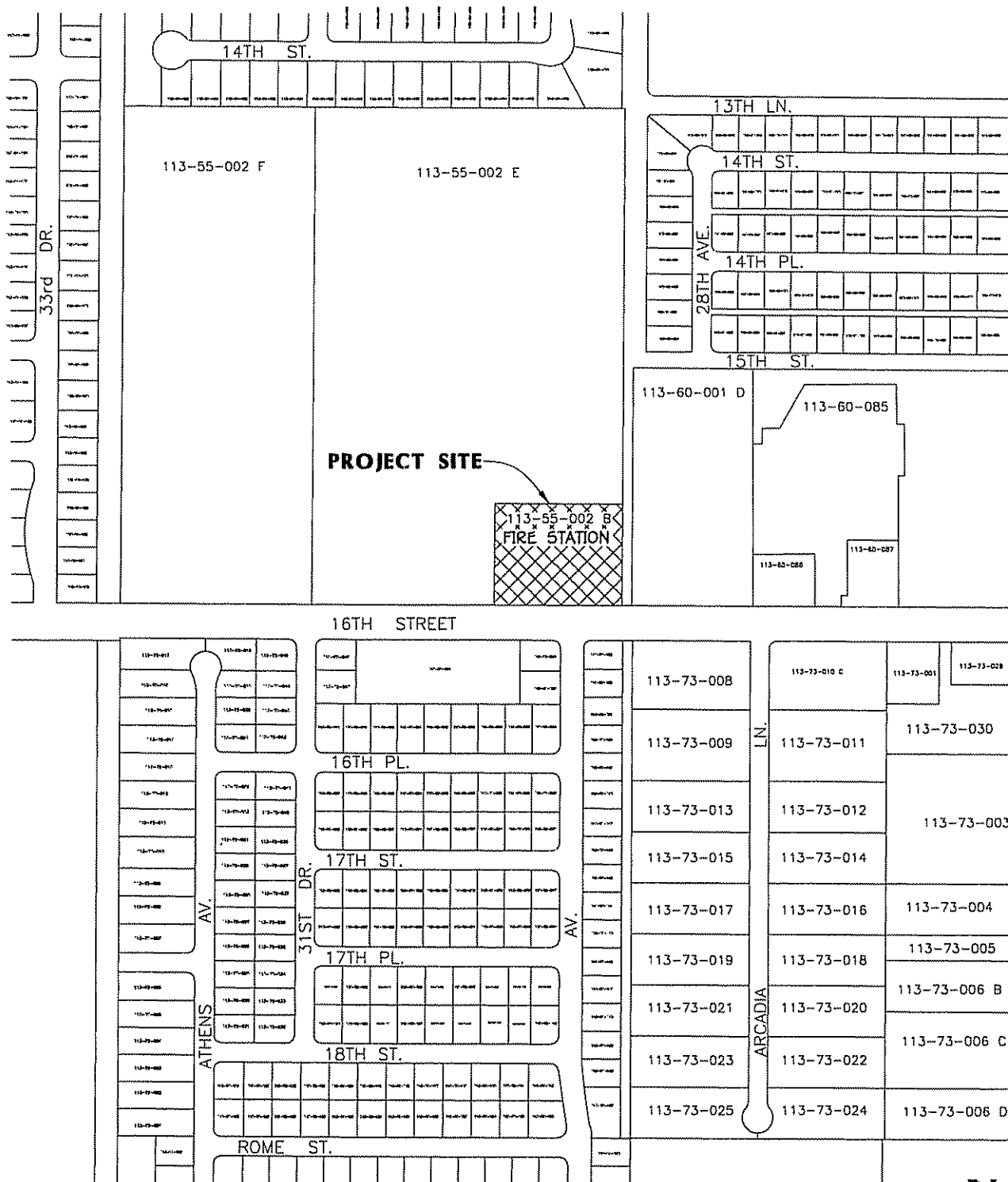

Lawrence K. Nelson
Mayor 

ATTESTED:


Brigitta M. Kuiper
City Clerk

APPROVED AS TO FORM:

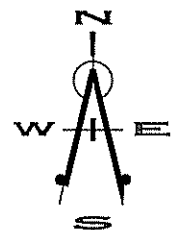

Steven W. Modre
City Attorney



**Reference
Only**



LOCATION OF SUBJECT PROPERTY



N.T.S

Prepared by: JESUS GARCIA.

Checked by: PAUL BROOBERG

DEPT.
OF
PUBLIC
WORKS



DATE: 5-5-2003

SCALE: N.T.S

REVISED:

CIP NO.

APPROVAL ATTORNEY FORM FOR THE
CITY OF YUMA

I have reviewed the above referenced proposed intergovernmental agreement, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF YUMA and declare this agreement to in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 9 day of September, 2004.

Ronald Vinas
Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

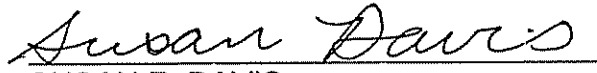
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-2291TRN (**JPA 02-060**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 13, 2004

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section